

OBLIGATIONS

FOUR-FACTOR ANALYSIS

Recipients of federal financial assistance have an obligation to reduce language barriers that can preclude meaningful access by LEP persons to important government services. (The federal government has the same obligations as a result of Executive Order 13166.) The starting point is an individualized assessment that balances the following four factors;

1. The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee/recipient;
2. The frequency with which LEP individuals come in contact with the program;
3. The nature and importance of the program, activity, or service provided by the program to people's lives; and
4. The resources available to the grantee/recipient and costs.

Elements of an Effective LEP Policy

- Identifying LEP persons who need language assistance
- Identifying ways in which language assistance will be provided.
- Training Staff
- Providing notice to LEP persons
- Monitoring and updating policy

Language Assistance Services

- Oral interpretation services
- Bilingual staff
- Telephone interpreter lines
- Written language services
- Community Volunteers

Tennessee Department of Labor and Workforce Development

Civil Rights Division
Compliance Assistance Section
710 James Robertson Parkway, 8th floor
Nashville, Tennessee 37243
(615) 741-8805 or (615) 253-1331
www.tennessee.gov/labor-wfd

For individuals with hearing impairments, please call the Tennessee Department of Labor and Workforce Development's TDD Line at (615) 532-2879.

U.S. Department of Justice

Civil Rights Division
Coordination and Review Section_NYA
950 Pennsylvania Avenue, N.W.
Washington, DC 20530
www.usdoj.gov/crt/cor

Title VI Hotline

1-888-TITLE-06 (1-888-848-5306)
(Voice/TDD)

The Tennessee Department of Labor and Workforce Development is an equal opportunity employer /program; auxiliary aids and services are available upon request to individuals with disabilities.



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Limited English Proficiency LEP

Affirming LEP Access
and Compliance in
Federal and Federally
Assisted Programs



Delivering services to all
persons
regardless of race, color,
or national origin

Who is a Limited English Proficient Person?

Persons who do not speak English as their primary language and who have a limited ability to read, speak, write or understand English can be limited English proficient, or “LEP.” These individuals may be entitled to language assistance with respect to a particular type of service, benefit, or encounter.

Who Must Comply and Who Can be Found in Violation?

The federal government and those receiving assistance from the federal government must take reasonable steps to ensure that LEP persons have meaningful access to the programs, services, and information those entities provide.

All programs and operations of entities that receive assistance from the federal government (i.e. recipients), including”

- state agencies
- Local agencies
- Private and nonprofit entities

Sub recipients (entities that receive federal funding from one of the recipients listed above) must also comply. This is true even if only one part of the recipient receives the federal assistance.

Example: DOJ provides assistance to a state department of corrections to improve a particular prison facility. All of the operations of the entire state department of corrections--not just the particular prison--are covered.

All programs and operations of the federal government also must comply.

LEGAL AUTHORITY Title VI of the 1964 Civil Rights Act

Title VI of the Civil Rights act of 1964 is the Federal law that protects individuals from discrimination on the basis of their race, color, or national origin in programs that receive Federal financial assistance.

“No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.” 42 U.S.C 2000d.

The United States Supreme Court in Lau v. Nichols (1974) stated that one type of national origin discrimination is discrimination based on a person’s inability to speak, read, write, or understand English.

Federal Government Executive Order 13166

On August 2000, this Order “Improving Access to Services for Persons with Limited English Proficiency” was issued and directed federal agencies to:

- Publish guidance on how their recipients can provide access to LEP persons.
- Improve the language accessibility of their own programs.
- Break down language barriers by implementing consistent standards of language assistance across federal agencies and amongst all recipients of federal financial assistance.

The Order covers all federal and federally assisted programs and activities.

Speak English-Only Rule

A rule requiring employees to speak only English at all times on the job may violate Title VII, unless an employer shows it is necessary for conducting business. If an employer believes the English-only rule is critical for business purposes, employees have to be told when they must speak English and the consequences for violating the rule. Any negative employment decision based on breaking of the English-only rule will be considered evidence of discrimination if the employer did not tell employees of the rule.

Accent

An employer must show a legitimate nondiscriminatory reason for the denial of employment opportunity because of an individual’s accent or manner of speaking. Investigations will focus on the qualifications of the person and whether his or her accent or manner of speaking had a detrimental effect on job performance. Requiring employees or applicants to be fluent in English may violate Title VII if the rule is adopted to exclude individuals of a particular national origin and is not related to job performance.

Harassment

Harassment on the basis of national origin is a violation of Title VII. An ethnic slur or other verbal or physical conduct because of an individual's nationality constitute harassment if they create an intimidating, hostile or offensive working environment, unreasonably interfere with work performance or negatively affect an individual’s employment opportunities.

Employers have a responsibility to maintain a workplace free of national origin harassment. Employers may be responsible for any on-the-job harassment by their agents.